

Senate File 367 - Introduced

SENATE FILE 367

BY MATHIS

A BILL FOR

1 An Act relating to campaigns for public office by requiring
2 certain independent expenditure donor disclosures and
3 providing judicial standards related to libelous statements
4 in published campaign materials.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 68A.102, subsection 17, Code 2017, is
2 amended to read as follows:

3 17. "*Person*" means, without limitation, any individual,
4 corporation, government or governmental subdivision or agency,
5 business trust, estate, trust, partnership or association,
6 labor union, social welfare organization, as described in
7 section 501(c)(4) of the Internal Revenue Code, or any other
8 legal entity.

9 Sec. 2. Section 68A.404, subsection 5, Code 2017, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. *i.* If the person making the independent
12 expenditure uses, in whole or in part, anything of value from
13 one or more donors which was not given for the purpose of
14 furthering the independent expenditure, the person making the
15 independent expenditure must disclose the names of each donor
16 who gave to the person making the independent expenditure
17 in the twelve months prior to the independent expenditure
18 being made and the amount and date of each donation in that
19 period. For purposes of this section, a donor is a person
20 who has rendered anything of value in return for which legal
21 consideration of equal or greater value is not given and
22 received.

23 Sec. 3. Section 659.4, Code 2017, is amended to read as
24 follows:

25 **659.4 Candidate Libel in campaign materials — contributor**
26 **liability — candidate — retraction — time — imputing sexual**
27 **misconduct.**

28 1. a. For the purposes of this subsection:

29 (1) "*Candidate*", "*committee*", "*contribution*", and "*person*"
30 mean the same as those terms are defined in section 68A.102.

31 (2) "*Published material*" means the same as defined in
32 section 68A.405, subsection 1.

33 b. A person making an independent expenditure under section
34 68A.404 or a committee commits libel if the person or committee
35 negligently makes a defamatory statement in published material

1 concerning a clearly identified candidate for public office. A
 2 candidate for public office who is subject of such a libelous
 3 statement may bring an action for damages under this subsection
 4 against the person or committee responsible for publishing the
 5 material.

6 c. The candidate under paragraph "b" may recover actual,
 7 special, and exemplary damages. A person making the
 8 independent expenditure under section 68A.404 or a committee
 9 publishing libelous statements shall be liable for damages, and
 10 any person making a contribution to the independent expenditure
 11 or to the committee shall be jointly and severally liable
 12 up to a dollar amount not to exceed the aggregate of the
 13 person's contributions to the independent expenditure or to the
 14 committee in the two years preceding the filing of the action
 15 for damages.

16 2. If the plaintiff was a candidate for office at the time
 17 of the libelous publication, no retraction shall be available
 18 unless published in a conspicuous place on the editorial page,
 19 nor if the libel was published within two weeks next before
 20 the election. This section subsection and sections 659.2 and
 21 659.3 do not apply to libel imputing sexual misconduct to any
 22 persons.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
 25 the explanation's substance by the members of the general assembly.

26 This bill relates to campaigns for public office by
 27 requiring independent expenditure donor disclosures and by
 28 providing judicial standards related to libelous statements in
 29 published campaign materials.

30 The bill expressly includes social welfare organizations
 31 within the definition of the term "person" in Code chapter
 32 68A. Under the bill, a social welfare organization is an
 33 organization as described in section 501(c)(4) of the Internal
 34 Revenue Code.

35 The bill requires that any person making an independent

1 expenditure disclose the names of each donor who gave to the
2 person making the independent expenditure in the 12 months
3 prior to the independent expenditure being made and the amount
4 and date of each donation in that period, even if the donation
5 was not given for the purpose of furthering the independent
6 expenditure. Under the bill, a person includes any individual,
7 corporation, government or governmental subdivision or agency,
8 business trust, estate, trust, partnership or association,
9 labor union, social welfare organization, or any other legal
10 entity.

11 The bill provides that a person making an independent
12 expenditure or a committee under Code chapter 68A commits libel
13 if the person or committee negligently publishes a defamatory
14 statement concerning a clearly identified candidate for
15 public office. The bill provides that a candidate for public
16 office who is subject of a libelous statement is permitted to
17 bring an action for damages against the person or committee
18 responsible for publishing the material. Under the bill, a
19 plaintiff can recover actual, special, and exemplary damages.
20 A person making the independent expenditure under Code section
21 68A.404 or committee making such libelous statements is
22 liable for damages, and any person making a contribution to
23 the independent expenditure or committee shall be jointly
24 and severally liable up to a dollar amount not to exceed the
25 aggregate of the person's contributions to the independent
26 expenditure or committee in the two years preceding the filing
27 of the complaint for damages.